

REMARKS

Reconsideration of this application is respectfully requested.

Claim 22 is directed to an apparatus for removing a cork from inside a mouth of a bottle. The apparatus includes at least one member which engages the outside of the mouth of the bottle. At least one handle is connected to the one member.

In addition, claim 22 sets forth a shaft as being coupled with the at least one handle so that movement of the at least one handle rotates the shaft. The shaft includes at least two spikes having a helical configuration throughout their length and projecting from the shaft and extending around a common longitudinal axis. The at least two spikes are embedded into the cork upon rotation of the shaft through movement of the at least one handle.

Each spike of the at least two spikes is set forth in claim 22 as having an arcuately curving connecting portion which forms a portion of a helix and is fixedly connected to the end portion of the shaft. The connecting portion of each spike having an arcuate central axis which forms a portion of the helix and extends at an acute angle to a flat surface area on the end portion of the shaft at a location where the spike is connected to the end portion of the shaft and where an arcuate central axis of the spike extends through a plain containing the flat surface area on the end portion of the shaft. The spikes, when embedded in the cork, are resistant to toggling in the cork and to being pulled axially from the cork.

Claim 21 defines over the prior art, and particularly the patents to Sweatt (4,750,391) and Marceca (Des. 247,279) by setting forth the two spikes as having a helical configuration throughout their length. In the patent to Marceca, the spikes do not have a helical configuration throughout their length. The upper end portions (as viewed in Figs. 1 – 3 of Marceca) are straight. Therefore, the spikes do not have a helical configuration throughout their length. This retards movement of the spikes of Marceca into the cork throughout their entire length when the handle is rotated relative to the cork.

In addition, claim 22 defines over the prior art by setting forth each spike as having an arcuately curving connecting portion which forms a portion of a helix and is fixedly connected to the end portion of the shaft. In the patent to Marceca, the connecting portions of the spikes do not form a portion of a helix.

In addition, claim 22 defines over the prior art by setting forth each spike as having an arcuate central axis which forms a portion of a helix and extends at an acute angle to a flat surface area on the end portion of the shaft at a location where the spike is connected to the end portion of the shaft. In the patent to Marceca, the spikes have end portions which extend perpendicular to a flat surface area on the shaft. The end portions on the spikes do not have an arcuate central axis which forms a portion of a helix.

Claims 23 through 32 depend from claim 22 and define over the prior art for substantially the same reasons as does claim 22 and by virtue of the structure and function set forth in these claims taken in combination with the structure and function of claim 22. Specifically, claim 23 sets forth each of the spikes as being a

pair of intertwined corkscrews which have helical configurations throughout their length. In the patent to Marcea, the spikes do not have a helical configuration throughout their length.

Claim 24 depends from claim 22 and sets forth a distal end portion of each of the spikes as having a tip portion which penetrates into the cork. The tip portion of each of the two spikes has a flat surface area which faces toward the common longitudinal central axis. In the patent to Marcea, the spikes do not have tip portions with flat surface areas in the manner set forth in claim 24.

Claim 25 depends from claim 24 and sets forth the tip portion of each of the spikes as having a surface area which forms a portion of a cone. The surface area which forms a portion of the cone at least partially encloses the flat surface area on the tip portion of the spike. The patent to Marcea does not disclose spikes having tip portions with (1) flat surface areas and (2) conical surface areas which at least partially enclose the flat surface areas.

Claim 26 depends from claim 22 and sets forth at least one member as including a lever which is pivotally attached to the handle.

Claim 27 depends from claim 22 and sets forth the shaft as being pivots attached to the handle to enable the angular relationship of the handle to the longitudinal central axis to be changed by pivoted the handle relative to the spikes. In the patent to Marcea, the angular relationship between the handle and the spikes remains constant. It is impossible to change the angular relationship between the handle and spikes of Marcea.

Claim 28 depends from claim 22 and sets forth a handle as including a pair of oppositely disposed handles pivotally mounted to the at least one member. The Examiner has suggested that it would be obvious to combine the disclosure in the patent to Sweatt (4,750,391) with the disclosure in the patent to Marcea. However, the patent to Sweatt discloses an opener having tongs which grip the outside of a cork, in the manner illustrated in Figs. 7 and 8 in the patent to Sweatt to pull the cork from a bottle. The tongs of Sweatt are not rotated. The patent to Sweatt does not require rotation of a spike to embed the spike in the cork.

Claim 29 depends from claim 28 and sets forth each handle of the pair of handles as including gear teeth that are meshing engagement with rack teeth disposed on a shaft. The patent to Sweatt does disclose gear teeth which are disposed in meshing engagement with rack teeth. However, the patent to Sweatt contemplates that tongs will be utilized to grip the outside of a cork in a manner which is not even remotely contemplated by the patent to Marcea.

Claim 30 depends from claim 29 and sets forth the cork as being removed by manually rotating the handles which pull axially on the shaft after the two spikes have been embedded in the cork. The patent to Sweatt does not contemplate that spikes will be embedded into a cork.

Claim 31 depends from claim 22 and sets forth a frame and a support member connected by an axially extending rod. The support member is movable relative to the frame. The shaft is mounted to and projects from the support member.

Claim 32 depends from claim 31 and sets forth the at least one member as comprising a plurality of clamping arms which are hingedly attached to the frame. The pair of arms define an opening for receiving the mouthing of a bottle through which the at least two spikes project. The prior art does not disclose an apparatus for removing a cork from a bottle and wherein the apparatus includes a pair of helical spikes and a pair of arms which define an opening for receiving the mouthing of the bottle and through which the spikes project.

In view of the foregoing remarks, it is believed that the claims in this application clearly and patentably define over the prior art. Therefore, it is respectfully requested that the claims be allowed and this application passed to issue. If for any reason the Examiner believes that a telephone conference would expedite the prosecution of this application, it is respectfully requested that the Examiner call applicant's attorneys in Cleveland, Ohio at 621-2234, area code 216. Please charge any deficiency in the fees for this application to our Deposit Account No. 20-0090.

Respectfully submitted,



Richard S. Wesorick
Reg. No. 40,871

CUSTOMER NUMBER: 26,294

TAROLLI, SUNDHEIM, COVELL, & TUMMINO L.L.P.
526 Superior Avenue – Suite 1111
Cleveland, Ohio 44114-1400
Phone: (216) 621-2234
Fax: (216) 621-4072